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**Before the
Federal Communications Commission DA 96-689
Washington, D.C. 20554**

In the Matter of)	MM Docket No. 96-107
)	
Clarence E. Jones)	File No. BR-950802YE
)	
For Renewal of License)	
for Station WMNY(AM))	
Elloree, South Carolina)	

HEARING DESIGNATION ORDER

Adopted: May 1, 1996

Released: May 3, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) the captioned application for renewal of license filed by Clarence E. Jones ("Jones"), licensee of AM Station WMNY, Elloree, South Carolina and (b) the results of an investigation into the station's silent status.¹

2. WMNY has been off the air since April 1, 1994. The special temporary authorization permitting the station to remain silent expired September 12, 1995. Mr. Jones filed on March 12, 1996 his request for further extension of this temporary authorization, stating that he needed additional time "to seek out a buyer" for the facility. Our review of the past records for this station reveals that Mr. Jones' attempts to secure a purchaser for this station have not been successful. Further, Mr. Jones offers no evidence that such efforts will succeed in the near future and that the station can expeditiously resume operations. The station has been silent for a protracted period of time and the licensee has failed to demonstrate that causes beyond its control warrant the station's continued silence. Mr. Jones' request does not provide good cause for the continued extension of his special temporary authority. Therefore, WMNY is in apparent violation of Sections 73.1740² and

¹The Mass Media Bureau has been delegated authority to designate for hearing the renewal of license applications of silent broadcast stations. See Moenkopi Communications, Inc., 8 FCC Rcd 3990 (1993).

²Section 73.1740(a)(4) provides that:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period

73.1750³ of the Commission's Rules.

3. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the renewal of license application of WMNY(AM), Elloree, South Carolina IS DESIGNATED FOR HEARING at a time and location to be specified in a subsequent Order, upon the following issues:

- (1) To determine whether Clarence E. Jones. has the capability and intent to expeditiously resume the broadcast operations operations of WMNY(AM), consistent with the Commission's Rules.
- (2) To determine whether Clarence E. Jones has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.
- (3) To determine, in light of the evidence adduced pursuant to the preceding issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

4. IT IS FURTHER ORDERED, That, in the event it is determined that grant of the renewal of license application would serve the public interest, convenience and necessity, the

of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30-day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

³Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

grant will be conditioned on the expeditious resumption of operation, the precise period of time to be established in the hearing. Failure to resume operations within the time specified in the condition will result in the cancellation of the license and the deletion of the station's call letters.

5. IT IS FURTHER ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the LICENSEE, Clarence E. Jones.

6. IT IS FURTHER ORDERED, That, to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.221(c) of the Commission's Rules, SHALL FILE with the Commission, in person or by attorney, within twenty (20) days of the receipt of this Order a WRITTEN APPEARANCE stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

7. IT IS FURTHER ORDERED, That the licensee herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau